

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:08-00106

JOHN KEVIN ENGLAND

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On February 12, 2015, the United States of America appeared by Timothy D. Boggess, Assistant United States Attorney, and the defendant, John Kevin England, appeared in person and by his counsel, David R. Bungard, Assistant Federal Public Defender, for a hearing on the petition on supervised release submitted by United States Probation Officer Justin L. Gibson. The defendant commenced a six-year term of supervised release in this action on July 7, 2011, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on March 18, 2009.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant committed the state offense of simple possession of Suboxone as evidenced by his having been found guilty on August 7, 2015, and assessed a fine and court costs, as well as his admission to the probation officer on July 29, 2014; (2) the defendant used and possessed controlled substances as evidenced by a positive urine specimen submitted by him on April 15, 2014, for opiates and oxycodone; a positive urine specimen submitted by him on May 21, 2014, for cocaine; the defendant's admission to the probation officer on July 29, 2014, that he had used Suboxone; the defendant's admission to the probation officer on April 13, 2014, that he had unlawfully purchased hydrocodone and Percocet; and the defendant's admission to the probation officer on July 29, 2014, that he had been illegally purchasing Suboxone during the five months prior; (3) the defendant failed to notify the probation officer within 72 hours inasmuch as he did not notify the probation officer of the citation issued to him by the West Virginia State Police on July 23, 2014, until July 29, 2014; and (4) the defendant failed to abide by the special condition that

he reside at Dismas Charities for a period of four months inasmuch as he entered the program on October 3, 2014, and was discharged on December 23, 2014, for failing to abide by facility rules; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of FOUR (4) MONTHS, to be followed by a term of thirty-six (36)


months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he participate in drug abuse counseling and treatment as directed by the probation officer.

The defendant was remanded to the custody of the United States Marshal.

Recommendation: The court recommends that the defendant be designated to an institution as close to Charleston, West Virginia, as feasible.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: February 26, 2015


John T. Copenhaver, Jr.
United States District Judge